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January 23, 2025

**VIA ELECTRONIC CASE FILING**

Hon. Diane Gujarati  
United States Courthouse  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: *Gabriel F. Dalmau v. City of New York*  
22-CV-6326-DG-JAM (EDNY)

Dear Judge Gujarati:

I represent Plaintiff Gabriel F. Dalmau in this action asserting federal, state, and city law claims for failure to accommodate Mr. Dalmau's religious objections to DSNY's COVID-19 vaccination requirement.

Defendant's motion for summary judgment was fully briefed and filed on November 12, 2024 (ECF Docs. 32, 33, 34). I am writing to bring to the Court's attention certain developments since then which may be relevant to the Court's resolution of the pending motion.

First, I was retained by the plaintiffs in *Gardner-Alfred v. Federal Reserve Bank of N.Y.*, 22-CV-1585-LJL (SDNY), to argue their appeal before the Second Circuit, No. 23-7544, which was heard on December 4, 2024. An audio recording of the oral argument is available on the Second Circuit's website. My impression of the argument is that the Second Circuit may reverse the district court's decision, at least in part. To date, no decision has been issued. Because this case was debated by the parties in their briefs, I am updating the Court on what is happening with the appeal.

Second, I would like to call the Court's attention to three recent decisions involving the same religious belief issue involved in the pending motion (courtesy copies attached):

*Barnett v. Inova Health Care Servs.*, No. 24-1271, 2025 WL 37237 (4th Cir. Jan. 7, 2025) (reversing 12(b)(6) dismissal);

*Denoia v. Roche Diagnostics Corp.*, 1:23-CV-00344-SEB, 2024 WL 5186873 (S.D. Ind. Dec. 20, 2024) (denying employer's motion for summary judgment re Title VII religious accommodation claim);

*Bobnar v. AstraZeneca Pharmaceuticals LP*, 1:22-CV-2258-PAB, 2024 WL 4893911 (N.D. Ohio Nov. 26, 2024) (denying employer's motion for summary judgment, and granting employee's motion for summary judgment, re Title VII religious accommodation claim).

My client and I thank the Court for its time and consideration.

Respectfully submitted,

*/s/ Steven M. Warshawsky*

Steven M. Warshawsky  
*Attorney for Plaintiff*

cc: All Counsel of Record (via ECF)